

Unofficial Draft Copy

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LC5007

**** Bill No. ****

Introduced By *****

By Request of the *****

A Bill for an Act entitled: "An Act providing that a statement, affirmation, gesture, or conduct expressing apology, fault, sympathy, commiseration, condolence, compassion, or benevolence relating to the pain, suffering, or death of a person that is made to the person, the person's family, or a friend of the person or of the person's family is inadmissible as evidence of an admission of liability in a civil action for medical malpractice; and providing an applicability date."

Be it enacted by the Legislature of the State of Montana:

NEW SECTION. Section 1. Statement of apology, sympathy, or benevolence -- not admissible as evidence of admission of liability for medical malpractice.

(1) A statement, affirmation, gesture, or conduct expressing apology, fault, sympathy, commiseration, condolence, compassion, or a general sense of benevolence relating to the pain, suffering, or death of a person that is made to the person, the person's family, or a friend of the person or of the person's the family, is not admissible as evidence of an admission of liability in a civil action for medical malpractice.

(2) As used in this section, the following definitions apply:

(a) "Apology" means a communication that expresses regret or asks for a pardon for a fault or offense.

(b) "Benevolence" means a communication that conveys a sense of compassion or commiseration emanating from humane impulses.

(c) "Communication" means a statement, writing, or gesture.

(d) "Family" means the spouse, parent, spouse's parent, grandparent, stepmother, stepfather, child, grandchild, sibling, half sibling, or adopted children of a parent of an injured party.

NEW SECTION. Section 2. {standard} Codification instruction. [Section 1] is intended to be codified as an integral part of Title 26, chapter 1, part 6, and the provisions of Title 26, chapter 1, part 6, apply to [section 1].

NEW SECTION. Section 3. Applicability. [This act] applies to causes of action arising after [the effective date of this act].

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